

Atty. Docket No. OPP031047US
Serial No: 10/751,172

Remarks

The present application has been restricted as follows:

Group I: Claims 1 - 14, drawn to a method of making a semiconductor device; and

Group II: Claims 15 and 16, drawn to a semiconductor device.

Applicant has elected, with traverse, Group I, Claims 1-14, drawn to a method of making a semiconductor device.

Restriction is proper only when the groups of claims are (A) independent or distinct as claimed, and (B) there is a serious burden on the Examiner (M.P.E.P. § 803). Claims are independent when there is no disclosed relationship between them; for example, a process and an apparatus that is incapable of being used in practicing the process (M.P.E.P. § 802.01). Claims are distinct when they are related as disclosed, but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (M.P.E.P. § 802.01; emphasis in original). Examiners must provide reasons and/or examples in support of their conclusions (M.P.E.P. § 803).

In view of the above amendment to Claim 15, the burden of persuasion has not been met with regard to providing adequate reasons and/or examples in support of the conclusion of distinctness. As a result, the Restriction Requirement is improper and/or moot, and should be withdrawn.

The conclusion that the claims of Groups I and II are distinct has been made. The reason and/or example that the process (of Group I) could be used to make a semiconductor device where the silicide has a composition of TiSi_2 . In view of the amendment to Claim 15 above, this reason and/or example is no longer applicable or accurate.¹ Thus, the reason and/or example

¹ As originally filed, Claim 15 (Group II) was drawn to a "semiconductor device... *manufactured according to any one of the preceding claims 1 to 13*" (Group I; emphasis added). Thus, there is a clear relationship between the claims of Groups I and II as originally filed.

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provided in support of the conclusion of distinctness overlooks the language of the claims and the standards for restriction as set forth at least in M.P.E.P. §§ 802.01 and 803.

Consequently, the reason(s) and/or example(s) given do not carry the burden of persuasion in support of the conclusion of distinctness between Groups I and II, and restriction would appear to be improper on this basis.

Conclusion

Applicant has elected, with traverse, Group I, Claims 1-14, drawn to a method of making a semiconductor device. However, in view of (1) the language of and the relationship between the claims in Groups I and II, and (2) the inapplicability of the reason and/or example supporting the conclusion of distinctness between Groups I and II, the Restriction Requirement is moot and/or improper and should be withdrawn. Thus, in view of the above amendment, election and remarks, Claims 1-16 are in condition for examination on the merits. Early notice to that effect is earnestly requested.

If it is deemed helpful or beneficial to the efficient prosecution of the present application, the Examiner is invited to contact Applicant's undersigned representative by telephone.

Respectfully submitted,



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